

Attorney Docket: 1390-9CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Ralph et al.

Examiner: David O. Reip

Patent No.: RE39,089

Issued: May 2, 2006

Serial No.: ~~09/926,612~~ 09/992,612

Filed: November 12, 2001

For: **POLYAXIAL PEDICLE SCREW
HAVING A THREADED AND
TAPERED COMPRESSION LOCKING MECHANISM**

Dated: December 12, 2006

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. § 1.181 TO CORRECT
PATENT BIBLIOGRAPHIC DATA**


Dear Sir:

The Assignee hereby petitions the Director to correct the maintenance fee records of U.S. Patent No. RE39,089 that issued on May 2, 2006. According to the Patent Bibliographic Data available on the PAIR page of the United States Patent and Trademark Office website, the above-identified reissue patent expired for failure to pay the 4th year maintenance fee by March 17, 2003. In addition, the same Patent Bibliographic Data page indicates that a Maintenance Fee Reminder was mailed on October 4, 2006. The Assignee contests the alleged expiration of U.S.

CERTIFICATION UNDER 37 C.F.R. § 1.8 (a)

I hereby certify that this correspondence and the documents referred to as enclosed are being deposited with the United States Postal Service on date below in an envelope as addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: December 12, 2006


Dana A. Brussel

Patent No. RE39,089¹ and petitions the Director to correct the error in the maintenance fee records for the above-identified reissue patent.

STATEMENT OF FACTS

The above-identified reissue patent is a continuation of U.S. Patent No. RE37,665, which is a reissue of U.S. Patent No. 5,882,350 that was surrendered in favor of U.S. Patent No. RE37,665.

On August 30, 2006, the 8th year maintenance fee was paid for U.S. Patent No. RE37,665 according to the original maintenance fee schedule for U.S. Patent No. 5,882,350 in accordance MPEP § 1415.01. This information is correctly presented in the Patent Bibliographic Data for U.S. Patent No. RE37,665². U.S. Patent No. RE39,089 is a continuation of U.S. Patent No. RE37,665 and claims priority to U.S. Patent No. 5,882,350. Therefore, it should also have the same maintenance fee schedule that is based on U.S. Patent No. 5,882,350.

According to the Maintenance Fee Reminder mailed on October 4, 2006, the 8th year maintenance fee is due for U.S. Patent No. RE39,089. However, the information published on the PAIR page is erroneous since it alleges that U.S. Patent No. RE39,089 expired for failure to pay the 4th year maintenance fee by March 17, 2003, which is over three (3) years prior to the issuance of U.S. Patent No. RE39,089. This information appears to relate to U.S. Patent No. 5,882,350 that was surrendered in favor of U.S. Patent No. RE37,665.

Since the 8th year maintenance fee for U.S. Patent No. RE39,089 is due by March 16, 2007, the Assignees believe that the information published on the PAIR page for this patent is erroneous and requires correction to reflect that the patent is currently in force and has not expired for failure to pay maintenance fees due prior to its issue date. The Assignee does not

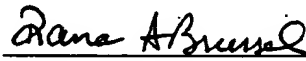
¹ See Exhibit A.

² See Exhibit B.

believe any fees are due for this petition since the error occurred through no fault of the Assignee. However, if a fee is due, please charge the fee to Deposit Account No. 50-2140.

Prompt and favorable action on this petition is earnestly requested. If a telephonic interview is necessary to resolve any outstanding matters, please contact the Assignee's representative at (631) 501-5713.

Respectfully submitted,



Dana A. Brussel
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Attorney for Assignee

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Patent Bibliographic Data		11/15/2006 11:38 AM	
Patent Number:	RE39089	Application Number:	09992612
Issue Date:	05/02/2006	Filing Date:	11/13/2001
Title:	POLYAXIAL PEDICLE SCREW HAVING A THREADED AND TAPERED COMPRESSION LOCK		
Status:	Expired, No 4th year fee paid by: 03/17/2003		
Window Opens:	03/18/2002	Surcharge Date:	09/17/2002
Fee Amt Due:	\$0.00	Surchg Amt Due:	\$0.00
Fee Code:		Entity:	Large
Surcharge Fee Code:		Expiration:	N/A
Most recent events (up to 7):	2006/10/04 Maintenance Fee Reminder Mailed. --- End of Maintenance History ---		
Address for fee purposes:	CARTER, DELUCA, FARRELL AND SCHMIDT 445 BROAD HOLLOW ROAD, SUITE 225 MELVILLE, NY 11747		
<p>NOTE: All USPTO fees are subject to change. If you are making a payment by mail or fax, please visit this link or contact the Maintenance Fee Branch (571-272-6500) to confirm the amount due on the date payment is to be made. A maintenance fee payment can be timely made using the certificate of mailing or transmission procedure set forth in 37 CFR 1.8.</p>			
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EXHIBIT A

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Patent Bibliographic Data		Patent Number: RE37665		Application Number: 09774915		Issue Date: 04/16/2002		Filing Date: 01/30/2001		Entity: Large	
Title:		Polyaxial pedicle screw having a threaded and tapered compression lock									
Status:		12th year fee window opens: 03/16/2010									
Window Opens:		03/16/2010		Surcharge Date:		09/17/2010		Expiration:		N/A	
Fee Amt Due:		Window not open		Surchg Amt Due:		Window not open		Total Amt Due:		Window not open	
Fee Code:		1553		MAINTENANCE FEE DUE AT 11.5 YEARS							
Surcharge Fee Code:											
Most recent events (up to 7):		Payment of Maintenance Fee, 8th Year, Large Entity. Payor Number Assigned. Payment of Maintenance Fee, 4th Yr, Small Entity. --- End of Maintenance History ---									
Address for fee purposes:		CARTER, DELUCA, FARRELL & SCHMIDT, LLP 445 BROAD HOLLOW ROAD SUITE 225 MELVILLE, NY 11747									
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EXHIBIT B